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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,797	12/31/2001	Paul W. White	BS01-101	5726
45695	7590	06/14/2006	EXAMINER	
WITHERS & KEYS FOR BELL SOUTH P. O. BOX 71355 MARIETTA, GA 30007-1355			KRISCIUNAS, LINDA MARY	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/029,797

Applicant(s)

WHITE ET AL.

Examiner

Linda Krisciunas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The following is a Final Office Action in response to the amendment filed May 15, 2006. Claims 1-30 are pending.

#### ***Response to Amendment***

The Examiner has fully considered the applicant's amendments to the claims and they are deemed persuasive to overcome the art rejection. The claims are currently rejected under 35 USC 101 and 35 USC 112 only.

#### ***Specification***

2. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc. Additionally, the abstract should not contain claim language. Proper correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter..

Under the statutory requirement of 35 U.S.C. 101, a claimed invention must produce a useful, concrete and tangible result. For a claim to be useful, it must yield a result that is specific, substantial, and credible (MPEP 2107). A concrete result is one that is substantially repeatable, ie, it produces substantially the same result over and over again. In order to be tangible, a claimed invention must set forth a practical application that generates a real-world result, ie, the claim must be more than a mere abstraction. Additionally, a claim may not preempt abstract ideas, laws of nature or natural phenomena nor may a claim preempt every substantial practical application of an abstract idea, law of nature or natural phenomena because it would in practical effect be a patent on the judicial exceptions themselves. Thus, claims 1-30 are not statutory.

Claim 1 merely recites providing access and populating fields of a database but does not manage and complete a task. The claimed populating and providing access features do not provide a tangible and useful result. Per claim 1, populating database fields with data does not provide a useful step; there is no specific, substantial and credible result. In addition, providing first, second and third groups with access to a web application does not provide a useful step nor a tangible result. There is no specific, substantial and credible result nor is there a practical real world result. In order to overcome these issues the three groups mentioned must be identified as well as the type of data being manipulated and the action being performed on the data. Similarly,

claims 2-30 do not produce a useful or tangible result. Claims 1-30 are directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-15 and 24-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 1 and 24, the body of the claim does not accomplish the stated objective of the preamble, which renders the claim indefinite.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art also teaches about pit management: Chaar et al (US 5,960,404), Olapurath et al (US 6,678,714), Purchase et al (US 5,432,838), Waye et al (US 7,024,157), Gill et al (US 6,005,560), Gill et al (US 6,947,959), Smiga et al (US 2002/0019825), "Mincom Unveils First Fully-Integrated IT Solution for Mining: Enterprise Mining Solution", Business Wire, March 8, 2000; "Mine automation" by John Chadwick, Mining Magazine, v172, n6, June 1995; "Optimum multi period open pit mine production scheduling" by K Dagdelen, Dissertation Abstracts International Part B : Science and Engineering, 1986; "Mincom launches Ellipse 5.0 web-enabled e-business asset management solution", Business Wire, Feb 11, 2000; "Komatsu selects e-parcel for CAD data delivery", Business Wire, July 13, 1999; "Komatsu shows technological leadership as first manufacturer to deploy Fullscope, Inc's global enterprise platform", PR Newswire, November 20, 2000; "Towards the minerless mine" by Mike Woof, Metal Bulletin Monthly, July 1999; "Satellites spur precision mining" by K. Korane, Machine Design, May 21, 1998; webarchive pages from [www.minemax.com](http://www.minemax.com), March 2001 (7 pages); "Black Thunder boosts production with Minestar" by Russell Carter, Coal Age, October 2001; "Embracing New Technology" by Chad Dorn et al, Pit & Quarry, January 2001; "Networking the building team" by Danner, Building Design & Construction, August 2001; "Collaborative Systems Move Closer; webs and nets speed design and project management links" by Matthew Phair, ENR, July 13, 1998; "Improving Project

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Team Interaction", Cost Engineering, December 1994; "Software solutions", Pit & Quarry, August 2001; "Contractors can use the internet to contact jobsites" by John Hall, Air Conditioning, Heating and Refrigeration News, November 29, 1999; "Project Management in Construction: Software use and research directions" by Liberatore et al, Journal of Construction Engineering and Management, March-April 2001; and "Project Management Application Models and Computer-assisted Construction Planning in Total Project Systems" by Froese et al, International Journal of Construction Information Technology, Summer 1997.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LMK



June 8, 2006



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